

**Statement of
The Honorable Harry Van Sickle
Commissioner
Union County, PA**

and

**Chair of the Labor and Employment Steering Committee
National Association of Counties**

**Before the
Veterans' Affairs Committee**

United States House of Representatives

**On behalf of the
National Association of Counties**

**Re: Protecting the Rights of Those Who Protect Us: Public Sector
Compliance with the Uniformed Services Employment and
Reemployment Rights Act**

June 23, 2004

Chairman Smith, Ranking Member Evans and other distinguished members of this committee; my name is Harry Van Sickle and I am a county commissioner from Union County, Pennsylvania. I am also the Chair of the Labor and Employment Steering Committee for the National Association of Counties (NACo), the only organization representing America's counties in Washington, DC. NACo has more than 2,000 member counties, representing 85 percent of the nation's population.

County officials throughout the country strongly support the men and women serving in the military, including those in our civilian workforce called to duty during times of heightened conflict to protect our nation. On behalf of county officials, I would like to express to you the extreme gratitude we feel towards those who have left their families and civilian jobs to serve for our country. We commend and appreciate our military troops for their vital service and sacrifice. Given the serious sacrifice these men and women have made and are making, county governments are striving to be the model workplace environment for these men and women serving on our behalf. County governments are diligently working to ensure smooth transition for these civilian employees into active military service and return to county government employment upon their safe return home.

I am deeply honored to be here today and would like to thank the chairman for the opportunity to testify on behalf of NACo regarding how county government employers are protecting the rights of civilian employees deployed for military service. As public sector employers, county governments play a critical role in planning, management and implementation of labor and employment laws. County governments strive to be the model workplace by upholding federal, state, and local workplace rules and by providing all employees with work friendly environments and benefit plans and packages that are responsive to the needs and desires of county employees. The benefits provided by county governments reflect the values of the community such as competitive salaries, enhanced health care, adequate pension and retirement systems, employee assistance programs and other services that meet individual employee needs including those of reservists.

County governments are diligently working to ensure that the rights of those civilian employees deployed for military service are protected. In response to the federal laws and recent increases in military deployment many counties have followed the lead of the Uniformed Services Employment and Reemployment Rights Act (USERRA) and adopted policies and procedures with supplementary rights and benefits in addition to those provided by USERRA. This is to ensure the transition into active military service and return to county government employment goes as smoothly as possible for these employees, their families and in turn the county. The Uniformed Services Employment and Reemployment Rights Act was established to encourage non-career service in the military by preventing discrimination and minimizing disadvantages to service and civilian employment as well as disruption to such employees, their families and employers. USERRA protects employment and re-employment rights of qualified employees and their employment benefits. Across the breadth of this country, there may

be examples of less than full compliance in state and local jurisdictions, but USERRA, state and local laws adequately address such complaints.

I will share with you some of the policies and procedures counties have adopted on their own in response to their civilian employees being deployed for military service and will highlight some of the challenges counties meet and practices counties employ to handle these challenges. I will also briefly address HR 4477, The Patriotic Employer Act of 2004, which would require employers to post notices of rights and duties under USERRA and other draft changes for the Act.

Since U.S. military deployment significantly increased post - September 11, 2001 county government employers have dealt with the influx of personnel going to serve and returning home in a number of ways. NACo recently surveyed member counties and received over 150 responses from 27 states. Responses indicated that counties are using a number of methods to ensure transitions go as smoothly as possible for such reserve employees. While there were reports of a few problems, all those cited were resolved by the county officials in an appropriate manner.

County Policies and Benefits

USERRA requires employers to retain employment and benefits for civilian employees called to military duty. Many county government employers surveyed not only retain these positions; they also continue to provide such employees with their full salary. Specifically, some counties supplement the difference between the employee's county salary and military salary if their county pay is higher, usually until their release from active military service by proper authority. DeKalb County, Illinois follows a state "*hold harmless*" policy of covering the difference in pay for those employees serving.

Other counties provide the option of allowing deployed employees to use their vacation and or sick time to supplement their pay before placing them on military leave without pay. Other counties have a combination where they pay the difference in their county and military salary after such employees use vacation leave built up. Keep in mind all employees called to serve receive a military pay while actively serving, regardless of the additional options the county employer may provide.

While the military provides health benefits for those civilians called to serve and their dependents, by federal law counties are required to provide the option of medical benefits coverage to those on a military leave of absence for up to 18 months, which the employee can be required to pay. Several counties surveyed offer continuing health and medical benefits coverage for employees and their dependents. Some counties even pay the employees' portion of expenses for these benefits along with employer part during the time such employees serve in the military. Many civilians opt for continued coverage under their county government benefits to provide continuity in services for their family members.

Imperial County, California adopted policy and procedure for military leave of absence which provides the County sponsored health and life insurance plan for covered

employees and their dependents. At the employee's option they may choose to continue present health, dental or life insurance plans, however any additional costs shall be paid by employee or by County pursuant to existing bargaining unit agreement or county policy.

Other County Support

Unofficially, there are many county government employers that keep in touch with their civilian employees deployed for service. Many employers send monthly care packages to uniformed members and check up on their family members. Other county employers even assist family members with home improvement chores such as cutting the grass and keeping the sidewalks clean to ensure family members left behind are not forgotten. Several counties have ceremonies of appreciation for returning service members and their families to recognize the importance of their service.

Challenges for County Government Employers

Counties have faced some challenges during this time of increased military deployments. Filling the gaps during the employees' military deployment has been the primary challenge for county governments, particularly in the areas of public safety including police, sheriffs, firefighters and other emergency personnel. Already stretched due to heightened homeland security concerns losing even one of these vital workers can affect important county services, particularly in rural areas. Most counties surveyed do not hire temporary workers due to budgetary constraints. Most counties that have lost sheriffs and police officers cope without hiring additional personnel due to county budget constraints and additional training costs. Some counties use trainees from fire and police academies on a part-time basis for certain duties.

Many counties that hire temporary workers have faced challenges in recruiting employees due to the temporary status of the employment. Temporary workers who have been employed longer than a year sometimes move on due to lack of permanency guarantees by county governments. Since counties can face quick turnovers in temporary workers they must deal with the cycle of hiring again and retraining.

For other counties, it has been difficult financially to supplement differences between military and civilian pay when tours for such employees are significantly extended. They also face the dilemma of whether to hire temporary workers. Depending on the numbers of their civilian workforce deployed calculating the salary adjustments have initially been challenging for some, but counties understand the importance of getting the information correct and are carefully handling such changes.

Employees Returning

Regarding reservists returning to county positions, NACo did not learn of any major difficulties with employees returning to their county jobs after military service. Some county employers have faced the reality that many employees are not ready to start their civilian jobs right away. While federal law provides for a period upon which employees should return, a few counties have adopted policies to allow for continued leave for up to a year for such employees to make adjustments back to civilian life. Imperial County,

California gives employees returning up to one year from the date of honorable discharge to return to county employment. Also, in cases where counties hired temporary workers most have to be let go and the returning employee may need extensive re-training to get up to speed on their job duties.

Some counties have also reported that supervisors may change while employees are deployed and may not be familiar with USERRA, so there is some education that human resources departments do in such cases. For example, in Henrico County, Virginia an employee deployed for over a year who was reinstated upon his return was scheduled for a merit increase, but the new supervisor was unaware of it. The HR department caught the omission and the employee was given a salary increase with retroactive pay as well. HR departments are educating and re-educating supervisors who may not know or recall rules and rights under USERRA.

Draft Changes to USERRA

With regard to the draft language changes to USERRA, while NACo does not have any specific policy on these issues currently, we have considered the changes and understand the importance of HR 4477. Also, the potential health benefits extension from 18 months to 24 months would not pose unbearable problems for county employers since the employees themselves called for service would be required to cover such health expenses. Furthermore, NACo has no position on reinstating reporting requirements for the Department of Labor, unless it would somehow adversely affect county government employers.

Mr. Chairman, this concludes my testimony. I thank you and the committee for the opportunity to be here today, and would be pleased to answer any questions.